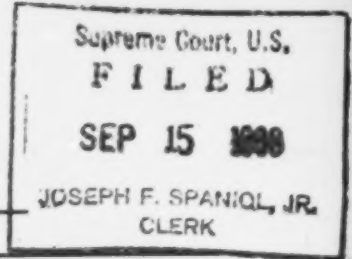


89-6152



NO. \_\_\_\_\_

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IN THE SUPREME COURT OF THE  
UNITED STATES

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OCTOBER TERM 1988

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John E. , John J. , and Judith A. Reardon,  
Petitioners,

VS

Virginia Reardon, Theodore M. Costa, David  
C. Epler, Dr. Marshal Gordon, Dr. David M.  
Goldstein, Judges Natal, Miller, and Scar-  
duzio, Camden Co. Court System, and any yet  
unknown person or agency.

Respondents.

John E. Reardon

Petitioner,

VS

Virginia Reardon, Sgt. Smarziaski, Ann Cara  
, Twp. of Voorhees, and the Police Dept. of  
Voorhees.

Respondents.

---

SUPPLEMENTAL BRIEF

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John E. Reardon  
Oakridge Terrace-B33  
Runnemedede, N. J. 08078  
(609) 931-5066

13/88



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SUPPLAMENTAL BRIEF

---

John E. Reardon  
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LEGAL ARGUMENTS

## 1] Additional Arguments in support of the Lower Court's Jurisdiction

According to the cases of *Pierson v Ray*, 386 U. S. 547 and *Ashe v Cort*, 422 U. S. 68 any person who is a member of the class identified by the Criminal Code has a standing to sue under that statute to recover damages in the amount established by the statutes in question. In this case the plaintiff clearly cited the statutes on Peonage, he referred to 18 U. S. C. 241 violations, he referred to the statutes on perjury, obstruction of justice, fraud, and extortion. Since the plaintiff is in fact a citizen of the United States, he must be by necessity a member of the class the law was designed to protect as they do not specify such by race as the case of *Ashe SUPRA* clearly indicates no

such classification necessary for the right to assert such a standing. Therefore, since the laws were designed to protect "all U. S. Citizens" in the exercise of their rights, the court had jurisdiction over these matters by way of the Federal Statutes.

2] Additional Arguments on Point 2 (d) regarding abuse of discretion

This court found in the case of *Lauritzen v. Larsen*, 349 U. S. 57, 286 U. S. 276, Constitutional rights are lost when a court is presented with a question and the court either fails to answer that question or erroneously answers that question. In this case, the plaintiff questioned the constitutionality of the actions of a judge/court system which enforces its laws with a heavy hand or evil eye. *Fickbo v. Hopkins*, 118 U. S. 356, 373

. 374. Since the missing 60 page affidavit gave specific examples of how this was being accomplished, the plaintiff, who is a member of a protected class, has now been denied rights by the court's refusal to address this issue and allow discovery on this topic/subject.

Further, this court has found that cases triable at common law for negligence, fraud, deceit or malicious prosecution were commonly tried by jury and therefore protected by the 7th Amendment of the U. S. Constitution. *Moore's Federal Practices, Vol. 4, Sec. 22. 01, page 22-17.*

Further, *Moore's Federal Practice at the same page cites Connolly v U. S., 149 F. 2d 666, 9th cir., 1945,* that a suit under the Federal Statutes which seeks damages consistent with the statute presents a legal issue triable by the jury, and not



the judge.

Further, the courts found in *Queen, Inc. v Woods*, 369 U. S. 469, *Edwards v Boeing Vertol*, 717 F. 2d\_\_\_\_ and in *Howard v Kunen*, Civ. Ac. No. 73-3813, 12/3/73, that where a case is both equitable and legal in nature and a right of trial by jury exists for either, said trial shall not be denied. Thus, the actions of the court to misapply the law, to ignore issues, and to examine only those issues it wished to examine has denied rights and the court has abused its discretion. In fact, the above criteria has established that when legal or factual issues are at stake and where a trial by jury is the normal process as determined by the common law rights under the 7th Amendment --which statutory rights establish such legal rights--then, even if the ques

-tion of the court's jurisdiction is raised, but raised in conjunction with the merits of the case, then the jury shall try the matter and the right to jury trial shall not be denied. *Moore's Federal Practice Manual, Jury trials, page 22-33, Land v Dollar, 330 U. S. 258 and Bailey's Bakery, LTD. v Continental Baking Co. (D. Haw. 1964), 9 F. R. Serv. 2d 38a. 75, Case 1.* Again, there is an abuse of discretion on the grounds that the court has dismissed the matter for want of jurisdiction on the merits upon motion for summary judgment on an action which contains issues normally tried by the jury on all questions presented to the court. The jury had the right to determine both as to questions of Law and fact as their common law right clearly indicates. Again, this is abuse of discre

-tion for the court to trie an issue that is the right of the jury when a jury trial was in fact demanded.

3] Additional arguments under point 3.

Aside from the arguments presented in the Petition, there is the right to sue under the Legal Theory of Joint Tort Feasors. In the case of *Peterson v Stanczak*, 48 F. R. D. 426, D. C. Ill., 1969, the court found that under this theory and that of conspiracy, the plaintiff was not and could not be required to provide his proofs as a matter of law in defense against a motion to dismiss. *Id.* @ 428. The Shephardization of this case produces only the case of *Imbler v Pachtman*, 424 U. S. 409. Since this case has not been modified, overturned or altered in any manner, it is still valid case Law. Mr. Denman has used this case continuously over

these years and it has been adopted in numerous unreported cases as controlling. On this concept of Joint Tort Feasors, and conspiracy, it is clear that there is a right of action against the private defendants since the court found that the judges apparently committed wrong, but that they simply were immune from damages.

However, they were still improperly removed from the action in that the petitioners are certainly entitled to injunctive, declaratory, costs and prospective relief. While said claims were not directly stated in the case, the petitioners did ask for any other relief deemed appropriate by the court or jury. *Pulliam v Allan*, 101 S. Ct. 1968, *Imbler SUPRA* @440-443, *Peterson SUPRA* @428-432, *Ex-Parte Va.*, 100 U. S. 369 and *Yickwo SUPRA*

Given that the legal issues triable by jury are required to be heard and settled first, the court has denied the right of trial by jury for the question of damages based upon the triable issues of fraud and negligence and conspiracy to say the least. These cases clearly give a standing for said suit, and it is equally clear the standard applied in this case is one to be applied at trial and the jury has been denied the right to determine as to both law and fact. The question here is not whether the plaintiff can establish by competent proof the existence of a conspiracy, for this is for a jury to decide. Thus, the threshold question of "state action/action under color of law" is established by the rudimentary pleadings. Beyond that, the court may not extend its power in

an area that Congress is not even permitted to transgress for the Power of the lower court is granted by Congress and thus Congress could not grant the court something it has no power to transgress. *Moore's Federal Practice, Jury Trials, pages 22-15, -16-21, and -22.* Therefore, the petitioners could not be forced to defend on motion to dismiss, and nor could the petitioners be forced to produce anything beyond the rudimentary allegations and the question of State Action or Action under color of Law is self supporting by the allegations made as the case of *Peterson SUPRA* suggests.

For all the forgoing reasons and reasons previously stated in the original petition, the lower court orders should be reversed and the cases remanded.

Dated: 10-9-89

John E. Reardon  
John E. Reardon for  
the petitioners

